

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 GUN CLUB ROAD
WEST PALM BEACH, FLORIDA

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NOV 13 2006 9:00 AM
SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

IN THE MATTER OF:

Order No. 2006-163-DAO-WS

Declaration of Phase I Moderate Water
Shortage Restrictions For All Use Classes
Using Surface Water From Lake Okeechobee
and Surface Waters Hydraulically Connected to
Lake Okeechobee within the Everglades Agricultural
Area Water Use Basin, Lake Shore Perimeter Water
Use Basin, Caloosahatchee River Water Use Basin,
Portions of the Indian Prairie Water Use Basin and
the St. Lucie River Water Use Basin Within Okeechobee,
Glades, Palm Beach, Lee, Hendry, and Martin Counties.

**DECLARATION OF PHASE I MODERATE
WATER SHORTAGE RESTRICTIONS**

The Governing Board of the South Florida Water Management District (hereinafter "District"), after considering recommendations of District staff and being otherwise fully apprised of the matter, issues this Order pursuant to Rule 40E-21.231, Florida Administrative Code (F.A.C.), based on the following Findings of Fact and Ultimate Facts and Conclusions of Law.

FINDINGS OF FACT

1. The water sources subject to this Order are Lake Okeechobee and the surface waters hydraulically connected to Lake Okeechobee within the Everglades Agricultural Area Water Use Basin, Lake Shore Perimeter Water Use Basin, Caloosahatchee River Water Use Basin, and portions of the Indian Prairie Water Use Basin and the St. Lucie River Water Use Basin. These basins are within Okeechobee, Glades, Palm Beach, Lee, Hendry, and Martin Counties. The affected areas are depicted on the attached Exhibit A.

2. The use classes subject to this Order are all use classes, non-agricultural consumptive uses as well as agricultural uses, within the basins identified in Paragraph 1.

3. During the "wet season" from June through October, Lake Okeechobee normally receives significant recharge from direct rainfall and inflow through surface water runoff from the watershed basins surrounding it. Under average rainfall conditions, Lake Okeechobee and its tributaries receive about 28 inches of rain from June through October, and Lake Okeechobee levels average about 16.2 feet NGVD 29 (14.9 feet NAVD 88) at the end of October.

4. During the months of June through October, 2006, however, the normal wet season rainfall conditions to recharge the low levels in Lake Okeechobee were deficient. As a result, water levels in Lake Okeechobee are relatively low. In 2006, rainfall for the months of June through October in watershed basins recharging Lake Okeechobee was up to 28% below average. Rainfall over Lake Okeechobee was also 23% below normal for the June through October 2006 time period.

5. Pursuant to Rule 40E-22.332, F.A.C., when water levels within Lake Okeechobee fall below a specified water shortage management zone, set forth in Figure 22-4 of the Rule, a Phase I water shortage may be declared within the Lake Okeechobee Region.

6. As of November 1, 2006, the level of Lake Okeechobee was 12.68 feet NGVD 29 (11.38 feet NAVD 88). Lake Okeechobee water levels fell below the water shortage management line in Rule 40E-22.332 (Figure 22-4) on October 24, 2006 and have remained below the line.

7. When considering whether to declare a water shortage, in addition to considering that Lake Okeechobee levels have fallen within this zone, the District considers other factors that evaluate the sufficiency of remaining water supplies, the projected user demands, climate forecasts, the potential for serious harm to the water resources, projected water savings from cutting back user withdrawals from the affected source, and any projected impacts on imposing such cutbacks on the consumptive uses, pursuant to Rule 40E-21.221, F.A.C. These considerations are discussed further below.

8. Demands of all agricultural water users from Lake Okeechobee within the basins affected by this Order are typically 600,000 acre-feet per year under average conditions, and are higher during the months of November through June. During dry conditions, the demands of the consumptive users increase due to a greater rate of evapotranspiration and supplemental water needs. This represents over 1.5 feet of water from Lake Okeechobee.

9. In addition to these direct permitted demands from Lake Okeechobee, during dry periods Lake Okeechobee may be relied upon to provide a backup water supply for the Lower East Coast (primarily Miami-Dade, Broward and Palm Beach Counties) and to recharge the surficial aquifer system within this area to recharge wellfields and prevent saltwater intrusion.

10. To date, the year 2006 has been one of the driest calendar years on record District-wide. The first 10 months of 2006 have been the second driest on record, leaving many areas of the District in 1-in-25-year drought conditions. October 2006 was the third driest on record since 1932.

11. The Climate Prediction Center is predicting a relatively low chance of below-normal November 2006 through April 2007 rainfall. Weak to moderate El Nino conditions may increase chances of above average winter rainfall, but this is not guaranteed. Current and projected inflows into Lake Okeechobee over the dry season are relatively small. Lake Okeechobee stage projections indicate a significant chance that levels will remain relatively low through the end of the calendar year.

12. The ability of individual water users to withdraw water at the lower elevations in Lake Okeechobee and connected surface waters may be significantly impaired during the coming dry season. This highlights the need for installation of additional increased capacity or lower intake pumping facilities, beyond those contemplated in the existing permit conditions for affected consumptive users.

13. As a result of the above, there is a significant potential that water supplies from Lake Okeechobee over the next dry season will decline to the extent that sufficient water will not be available to meet the present and anticipated requirements of the water users within the subject area, while protecting the water resources from serious harm and meeting secondary dry season demands within the Lower East Coast region. Analyses show that immediate restrictions on water user withdrawals within the identified basins from Lake Okeechobee and surface waters hydraulically connected to Lake Okeechobee, are essential to extend currently available water supplies.

14. Pursuant to Rule 40E-21.231, F.A.C., the District is authorized to declare a water shortage to equitably distribute Lake Okeechobee water supplies through implementation of the District's Water Shortage Plan, Chapter 40E-21, and Rules 40E-

22.312-.332, F.A.C.

15. Pursuant to Rule 40E-21.521 and Rule 40E-22.332, F.A.C., under the above identified conditions, Phase I water shortage restrictions may be authorized requiring cutbacks on consumptive use demands, including agricultural use cutbacks estimated for 1 in 10 year rainfall conditions by 15%.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

16. Section 373.246, Florida Statutes (F.S.), authorizes the Governing Board to adopt a water shortage plan to regulate the withdrawal and use of water resources of the District. Chapter 40E-21, F.A.C., is the District's Water Shortage Plan.

17. Rule 40E-21.231(1), F.A.C., authorizes the Governing Board to declare a water shortage when the District finds there is a possibility that insufficient water will be available within a source class to meet the estimated present and anticipated user demands from that source, or to protect the water resource from serious harm.

18. Pursuant to Rule 40E-21.231, F.A.C., the District is authorized to declare a water shortage to equitably distribute Lake Okeechobee water supplies through implementation of the District's Water Shortage Plan, Chapter 40E-21 and Rules 40E-22.312-.332, F.A.C.

19. Pursuant to Rule 40E-22.332, F.A.C., when water levels within Lake Okeechobee fall below a specified water shortage management zone, set forth in Figure 22-4 of the rule, a Phase I water shortage may be declared within the Lake Okeechobee Region pursuant to Rule 40E-21.521, F.A.C. In addition to considering that Lake Okeechobee levels have fallen within this zone, the District also considers other factors that evaluate the sufficiency of remaining water supplies, the projected user demands,

that evaluate the sufficiency of remaining water supplies, the projected user demands, climatic forecasts, the potential for serious harm to the water resources, projected water savings from cutting back user withdrawals from the affected source, and any projected impacts on imposing such cutbacks on the consumptive uses. Rule 40E-21.221, F.A.C.

20. Rule 40E-21.401, F.A.C., and permit conditions authorize the Governing Board to obtain data concerning monitoring of water usage. The District has monitored the conditions of the water resources and the needs of the users.

21. Based on the above Findings of Fact, including findings regarding Lake Okeechobee levels, climatic forecasts, and projected user demands over the dry season, the estimated present and anticipated available water supplies within all use classes within the Everglades Agricultural Area Water Use Basin, Lake Shore Perimeter Water Use Basin, Caloosahatchee River Water Use Basin, portions of the Indian Prairie Water Use Basin, and the St. Lucie River Water Use Basin, are insufficient to meet the estimated present and anticipated user demands.

22. As a result, Phase I water shortage restrictions may be authorized requiring cutbacks on consumptive use demands, including agricultural use cutbacks for 1 in 10 year rainfall conditions by fifteen percent (15%).

ORDER

Based upon the above Findings of Fact, Ultimate Findings of Facts and Conclusion of Law, the Governing Board orders that:

1. A water shortage is declared and Phase I Moderate Water Shortage Restrictions are imposed on all uses of water, in accordance with Rule 40E-21.521, F.A.C., from Lake Okeechobee or surface waters hydraulically connected to Lake

Okeechobee within the area depicted in Exhibit A. A copy of the Phase I Moderate Water Shortage Restrictions in Rule 40E-21.521, F.A.C., is attached as Exhibit B.

2. Pursuant to Section 373.119(2), F.S., and in recognition of the impending need of multiple users within the affected basins to lower pump intakes or install additional temporary pump facilities, the Governing Board issues this Order authorizing the temporary installation and operation of pumping facilities located within the area which is the subject of this Order and lower intake of existing permitted facilities as needed. Application processing fees shall be waived for temporary installations authorized by this Order. This authorization shall last until the Order is rescinded. This Order shall automatically authorize users to install such temporary pumping facilities, so long as the following conditions are satisfied:

- A. A written description of the temporary pumping facility or lowered intake is submitted to District staff which indicates the intent to temporarily enable the permitted consumptive user to access surface water at lower elevations.
- B. An 8-1/2" x 11' drawing is submitted and clearly shows all additional temporary facilities to be placed within the District's right of way. Pump size and capacity as well as the diameter, length and elevation of any culvert installation must be depicted on the drawing.
- C. The user provides reasonable assurances that all reasonable water quality protection measures necessary to avoid off-site impacts will be employed. Measures may include turbidity screens, hay bales, fuel spill containment tank, etc. Also, the user provides reasonable precautions to ensure that all temporary facilities do not increase wildfire potential.
- D. The user provides reasonable assurances that the temporary installations, and the operation thereof, will not degrade or otherwise interfere with the integrity of any channel, bank, berm, levee, structure or any secondary channel, bank, berm, levee or structure.
- E. The user provides reasonable assurances the temporary pumping units and appurtenant equipment shall be installed in such a manner so as to not block or otherwise interfere with District access. Piping shall be properly buried or bridged in a manner satisfactory to the District.

F. A 24-hour telephone contact person with a listing of the person's work, residence, mobile and pager numbers must be provided with the written submittal.

G. The written submittal must include a statement accepting application of all standard limiting conditions contained in Rule 40E-6.381, F.A.C., to the temporary pumping installation authorized by this Order.

H. Users must provide evidence of their pump installation design and intent to comply with the terms of this Order, along with appropriate 24 hour contact information at the site, in a visible, weatherproof pouch or cover.

I. The written submittal must include a statement accepting the requirement that all temporary facilities will be removed from the canal and right of way within 15 days after the Governing Board or Executive Director rescinds this Declaration of Water Shortage.

J. The written submittal must include a statement accepting the requirement that any canal right of way impacted by the placement of the temporary facilities will be restored to the satisfaction of the District within 15 days after the Governing Board or Executive Director rescinds this Declaration of Water Shortage.

3. Permitted water users are requested to continue submitting water usage monitoring data in accordance with permit conditions. Pumpage reports for the temporary facilities authorized pursuant to Paragraph 2 must also be submitted along with these pumpage reports. The Director of the Water Use Regulation Department is authorized to request, in writing, those permitted water users whose permit conditions require submittal of water usage monitoring data to provide additional data or data submittals at increased frequencies, as determined appropriate.

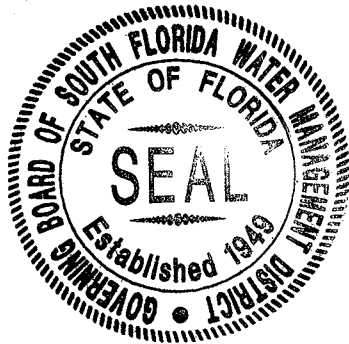
4. A user may request relief from this Order by filing an application for variance in accordance with Rule 40E-21.275, F.A.C., but must conform to the water use restrictions until the Executive Director grants a temporary variance or the Governing Board grants a variance.

5. The Governing Board requests that every city and county commission, state and county attorney, sheriff, police officer and other appropriate local government official assist within the boundaries of Exhibit A in the implementation and enforcement of this Water Shortage Order. The District staff will cooperate with the local governments in implementing such enforcement measures.


6. This Order imposing Phase 1 moderate water shortage restrictions shall become effective on November 17, 2006 and shall remain in effect until modified or rescinded by the Governing Board, or the Executive Director, if the circumstances set forth in Subsection 40E-21.291(5), F.A.C., are present.

7. A copy of the Notice of Rights is attached as Exhibit C.

DONE and ORDERED this 9th day of November, 2006, at a public meeting held at the Ocean Reef Club, 35 Ocean Reef Drive, Key Largo, Florida.



SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By ITS GOVERNING BOARD

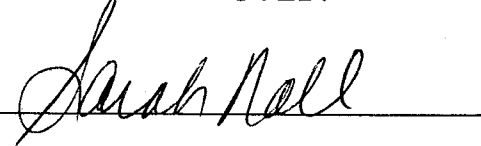

CAROL ANN WEHLE
Executive Director

ATTEST:

BY: 
Assistant Secretary

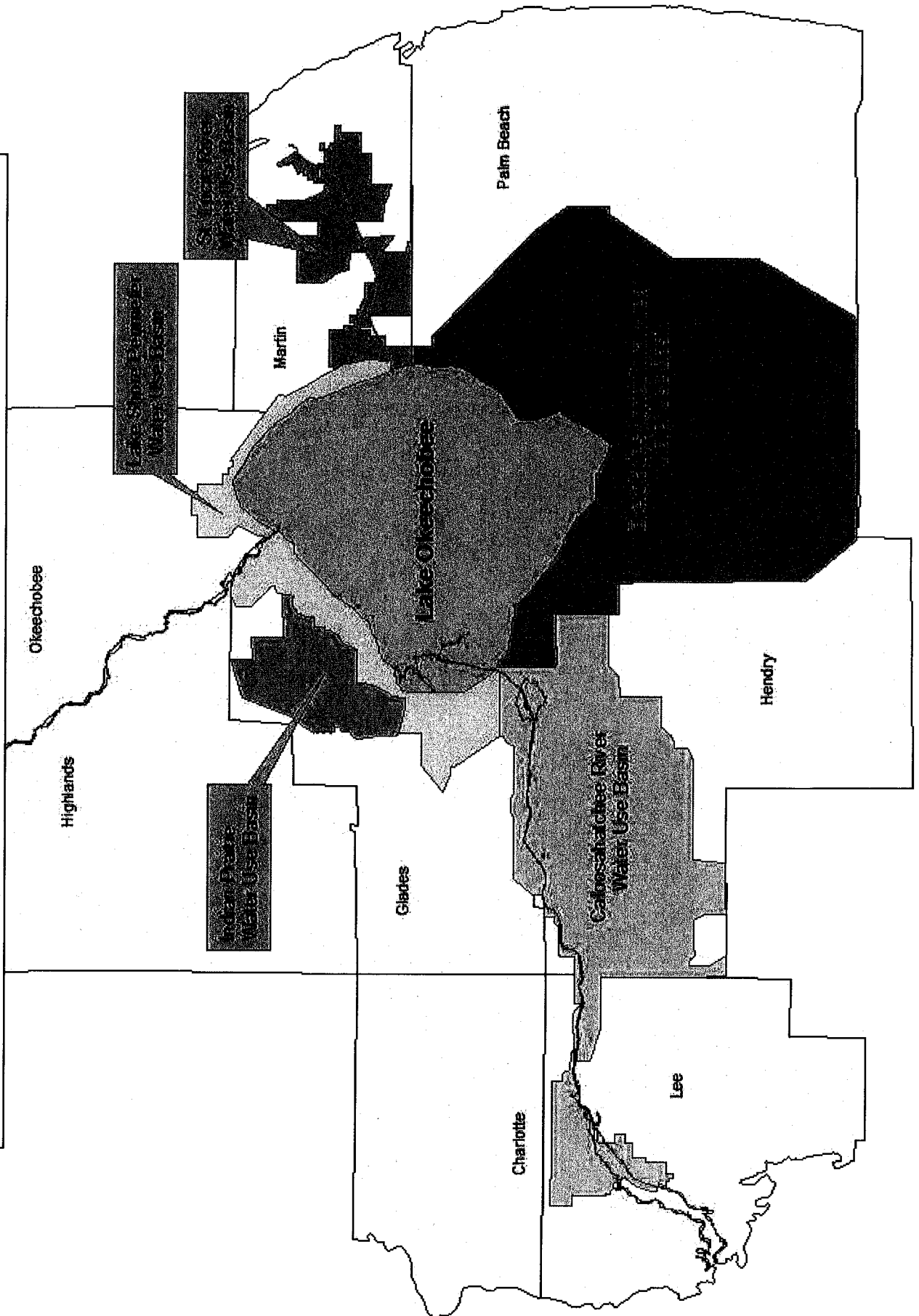
DATE: 11/13/2006

LEGAL FORM APPROVED:

BY: 

DATE: 11-9-07

**Lake Okeechobee Service Area Phase I Water Shortage Area
Including Water Use Sub-basins**



40E-21.501 Specific Restrictions.

(1) Upon declaration of a water shortage or water shortage emergency it shall be prohibited to use water in a manner inconsistent with the restrictions specified in this part and part II. It shall be the duty of each water user to stay informed as to the phase of water shortage and the applicable restrictions for that phase. Violation of the restrictions specified in this part and Part II shall be subject to enforcement action pursuant to Rule 40E-21.421, F.A.C.

(2) In addition to the restrictions specified in this part and part II, wasteful and unnecessary water use is prohibited regardless of the phase of water shortage. Such wasteful and unnecessary water use shall include, but not be limited to:

(a) Allowing water to be dispersed without any practical purpose to the water user, regardless of the type of water use.

(b) Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use.

(c) Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods without water use.

(3) Within each rule, use classes are grouped in the same sequence as in Rule 40E-21.651, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New 5-31-82, Amended 2-14-91.

40E-21.521 Phase I Moderate Water Shortage.

The following restrictions shall apply when a Phase I water shortage is declared by the District.

(1) Essential/Domestic/Utility/Commercial.

(a) Essential Use:

1. The use of water for firefighting, safety, sanitation, health and medical purposes and other essential uses shall not be restricted.

2. Fire hydrant flushing shall be undertaken only on an emergency basis.

3. Sanitary sewer line flushing and testing shall not be restricted except on a voluntary basis.

(b) Domestic Type Use:

1. Residential type domestic use shall be voluntarily reduced to achieve a per capita consumption of 60 gallons per person per day.

2. Domestic type use in industrial and commercial establishments shall be voluntarily reduced.

(c) Water Utility Use:

1. Initial pressure at the point of use (meter) shall be voluntarily reduced to levels no greater than 45 pounds per square inch. Upon reduction of pressure, the utility shall notify the appropriate fire-fighting agencies and make arrangements for direct communication when additional pressure is required.

2. New water line flushing and disinfection shall be restricted to the hours of 7:00 P.M. to 7:00 A.M. seven days per week.

3. As may be appropriate the utility shall institute additional voluntary conservation measures such as reclaiming of backwash water, improving and accelerating leak detection surveys and repair programs, installing and calibrating meters, and stabilizing and equalizing system pressures.

(d) Power Production Use. Water used for power production shall be voluntarily reduced.

(e) Commercial and Industrial Process Use:

1. Commercial car washes shall be restricted as follows:

a. For washes servicing passenger vehicles and mobile equipment weighing less than 10,000 pounds,

i. Use in excess of 75 gallons per wash shall be prohibited and

ii. Use equal to or less than 75 gallons per wash shall be voluntarily reduced;

b. For washes servicing mobile equipment weighing 10,000 pounds or more,

i. Use in excess of 150 gallons per wash shall be prohibited and

ii. Use equal to or less than 150 gallons per wash shall be voluntarily reduced.

2. Water used for commercial and industrial processes shall be voluntarily reduced.

3. Water use for cleaning, adjusting and repair of irrigation systems by a licensed person or entity shall be restricted as follows:

a. Projects one irrigated acre or greater in size shall be limited to one hour per acre per week,

b. Projects less than one irrigated acre in size shall be limited to 10 minutes per zone per week.

4. Water use for pesticide application under the supervision of a licensed pest control operator shall be voluntarily reduced.

Under the provisions of this subparagraph, the applicator must be on the premises when water is applied outside of the hours allowed for irrigation.

5. Water use for well development under the supervision of a licensed well contractor shall be voluntarily reduced.

6. Water use for mobile equipment washing by a licensed person or entity shall be voluntarily reduced.

(f) Diversion and Impoundment into Non-District Facilities. Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced.

(2) Agriculture.

(a) Agricultural Use:

1. Overhead irrigation shall be restricted to the hours of 2:00 P.M. to 10:00 A.M.

2. Low volume irrigation hours shall not be restricted.

3. All irrigation systems shall be operated in a manner that will maximize the percentage of water withdrawn and held which is placed in the root zone of the crop and will minimize the amount of water which is withdrawn and released or lost to the user but is not immediately available for other users.

4. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

5. Overhead irrigation for field grown citrus nursery stock moisture stress reduction shall be allowed daily for 10 minutes per irrigation zone from 11:30 A.M. to 12:00 P.M. and from 1:30 P.M. to 2:00 P.M.

6. Withdrawals by each permitted user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., shall be limited to an amount that represents each user's share of the total allocation for agricultural irrigation made by the District from Lake Okeechobee (Lake) for that month and in that basin. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on its evaluation of the supply capabilities of the source class, the supply capabilities of other source classes available in the area, the needs of agriculture and other users in the area, and the District's overall management strategy for handling the uncertainties of future climatological events. The share of the total agricultural irrigation allocation available to each user will be based on any prioritization among crops the District establishes based on irrigation efficiency, economic loss and equity considerations, and the acreage and quantity of withdrawals for which the user has been permitted. The District's allocation determination for agricultural irrigation within the Lake Okeechobee Region will be based on the supply capacity of Lake Okeechobee assuming a June 1st lake stage of 10.5 feet NGVD.

(b) Livestock Use. Livestock water use shall be voluntarily reduced.

(c) Aquacultural Use. Aquacultural water use shall be voluntarily reduced.

(d) Soil Flooding:

1. Soil flooding for vegetable seed planting, rice planting, burning of sugarcane prior to harvest and to permit harvesting of sod shall be voluntarily reduced.

2. Soil flooding for all other purposes shall be prohibited.

(e) Freeze Protection. Water use for freeze protection shall be restricted to situations in which official weather forecasting services predict temperatures likely to cause permanent damage to crops.

(3) Nursery/Urban Irrigation/Recreation.

(a) Nursery Use:

1. Low volume irrigation uses and low volume hand watering shall be voluntarily reduced.

2. Overhead irrigation uses shall be restricted as follows:

a. Inside – 8:00 A.M. to 8:00 P.M., seven days per week.

b. Outside – 7:00 P.M. to 7:00 A.M., seven days per week.

c. Overhead irrigation for containerized nursery stock moisture stress reduction on stock grown in containers up to and including 1 gallon in size shall be allowed daily for 10 minutes per irrigation zone from 11:30 A.M. to 12:00 P.M., 1:30 P.M. to 2:00 P.M. and 3:30 P.M. to 4:00 P.M.

3. Flood irrigation systems shall be restricted to 8 days per month.

(b) Landscape Irrigation – New Installation:

1. For installations which have been in place for less than 30 days, and

a. Less than 5 irrigated acres in size, water use for irrigation shall be restricted to the hours of 2:00 A.M. to 8:00 A.M., Monday through Friday,

b. 5 irrigated acres or greater in size, water use for irrigation shall be restricted to the hours of 12:01 A.M. to 8:00 A.M., Monday through Friday.

2. Low volume irrigation and low volume hand watering of new landscaping shall be voluntarily reduced.

3. Cleaning and adjusting of new irrigation systems shall be restricted to 10 minutes per zone on a one time basis.

(c) Landscape Irrigation – Existing Installation:

1. For existing installations less than 5 irrigated acres in size, water use for irrigation shall be restricted to the hours from 4:00 A.M. to 8:00 A.M. for all types of irrigation, except low volume irrigation, and 5:00 P.M. to 7:00 P.M. for low volume hand watering only, three days per week.

a. Installations with odd addresses shall be permitted to irrigate on Monday, Wednesday and Saturday.

b. Installations with even addresses or no address shall be permitted to irrigate on Tuesday, Thursday and Sunday.

2. For existing installations 5 irrigated acres or greater in size, water use for irrigation shall be restricted to the hours from 12:01 A.M. to 8:00 A.M., three days per week.

a. Installations with odd addresses shall be permitted to irrigate on Monday, Wednesday and Saturday.

b. Installations with even addresses or no address shall be permitted to irrigate on Tuesday, Thursday and Sunday.

3. Water use for cleaning, adjusting and repair of existing irrigation systems shall be limited to ten minutes per zone per week.

4. Low volume irrigation uses shall be voluntarily reduced.

(d) Recreation Area Use:

1. Landscape irrigation for new and existing recreation areas shall be restricted to the hours prescribed for new and existing landscape irrigation in paragraphs (b) and (c) respectively.

2. Irrigation of seeded and/or sprigged recreation areas that have been in place for less than thirty days shall be allowed daily for 10 minutes per irrigation zone from 11:30 A.M. to 12:00 P.M., 1:30 P.M. to 2:00 P.M. and 3:30 P.M. to 4:00 P.M.

3. Watering of pervious non-vegetated recreational/sporting surfaces shall be restricted to ten minutes of application prior to each recreational/sporting event. Low volume watering shall be used.

(e) Golf Course Use:

1. Irrigation of greens and tees shall be voluntarily reduced and shall be accomplished during non-daylight hours.
2. Irrigation of fairways, roughs and nonplaying areas on the first nine holes of the course shall be restricted to the hours of 12:01 A.M. to 8:00 A.M. on Monday, Wednesday and Saturday.
3. Irrigation of fairways, roughs and nonplaying areas on the last nine holes of the course shall be restricted to the hours of 12:01 A.M. to 8:00 A.M., Tuesday, Thursday and Sunday.
4. Irrigation of seeded and/or sprigged areas that have been in place for less than thirty days shall be allowed daily for 10 minutes per irrigation zone from 11:30 A.M. to 12:00 P.M., 1:30 P.M. to 2:00 P.M. and 3:30 P.M. to 4:00 P.M.

(f) Water Based Recreation Use:

1. Water based recreation water use shall be voluntarily reduced.
2. Draining of facilities into sewers or onto impervious surfaces shall be prohibited.

(4) Miscellaneous.

(a) Cooling and Air Conditioning Use.

The use of water for cooling and air conditioning shall be restricted to that amount of water necessary to maintain a minimum temperature of 78 degrees Fahrenheit.

(b) Dewatering Use. Discharge of fresh water to tide from dewatering shall be prohibited.

(c) Navigation Use:

1. The District shall request the U. S. Army Corps of Engineers to restrict its lockages to maintain acceptable chloride concentrations upstream of the locks and to conserve water.
2. In the case of the Franklin Lock and Dam, the District shall request the U. S. Army Corps of Engineers to restrict lockages to once every four hours if:
 - a. Chloride levels upstream of S-79 are 180 parts per million or higher, and
 - b. A rainfall in excess of one inch in 24 hours is not predicted in the surface water use basin within the next 48 hours.
3. If the restrictions imposed in subparagraph 2. are insufficient to stop the rising chloride levels, the District shall request the U. S. Army Corps of Engineers to further restrict lockages to once every four hours, twice per week.
4. If the restrictions imposed in subparagraphs 2. and 3. are still insufficient to stop the rising chloride levels, the District shall request the U. S. Army Corps of Engineers to prohibit lockages.

(d) Other Outside Uses:

1. Washing or cleaning streets, driveways, sidewalks, or other impervious areas with water shall be prohibited.
2. Outside pressure cleaning shall be restricted to only low volume pressure cleaning, seven days a week.
3. Mobile equipment washing with water shall be restricted to the hours and days prescribed for existing landscape irrigation in subparagraph (3)(c)1., using only low volume mobile equipment washing methods and shall be conducted over a pervious surface or in an area that immediately drains to a pervious surface. Rinsing and flushing of boats after saltwater use shall be limited to 15 minutes once a day for each boat.
4. Washing boats that serve as a primary residence shall be restricted to the hours and days prescribed for existing landscape irrigation in subparagraph (3)(c)1. Boats with an odd slip number shall be permitted to be washed on Monday, Wednesday and Saturday. Boats with an even slip number or no slip number shall be permitted to be washed on Tuesday, Thursday and Sunday.

(e) Aesthetic Use:

1. Non-recirculating outside aesthetic uses of water shall be prohibited.
2. Water use for outside aesthetic purposes by facilities that recirculate water shall be voluntarily reduced and must meet the following criteria:
 - a. Draining of water from outside aesthetic facilities into sewers or onto impervious surfaces is prohibited.
 - b. Outside aesthetic facilities shall not be operated when wind conditions cause water to be lost from the recirculating capacity of the facility.
 - c. Outside aesthetic facilities that leak water shall not be operated.
 - d. Outside aesthetic facilities that lose water due to an overflow shall not be operated.
3. Inside aesthetic uses of water shall be voluntarily reduced.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.175, 373.246 FS. History—New 5-31-82, Amended 1-26-86, 2-14-91, 9-10-01.

40E-21.531 Phase II Severe Water Shortage.

The following restrictions shall apply when a Phase II water shortage is declared by the District.

(1) Essential/Domestic/Utility/Commercial.

(a) Essential Use.

1. The use of water for firefighting, safety, sanitation, health and medical purposes and other essential uses shall not be restricted.

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing and/or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Right to Request Administrative Hearing

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569, 120.57, and 120.60(3), Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision in accordance with Rule 28-106.111, Fla. Admin. Code. Any person who receives written notice of a District decision and fails to file a written request for hearing within 21 days waives the right to request a hearing on that decision as provided by Subsection 28-106.111(4), Fla. Admin. Code.

The Petition must be filed at the Office of the District Clerk of the SFWMD, 3301 Gun Club Road, P.O. Box 24680, West Palm Beach, Florida, 33416, and must comply with the requirements of Rule 28-106.104, Fla. Admin. Code. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Pursuant to Rule 28-106.104, Fla. Admin. Code, any document received by the office of the District Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

- Filings made by mail must include the original and one copy and must be addressed to the Office of the District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must also include the original and one copy of the petition. **Delivery of a petition to the District's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the District's security officer to contact the Clerk's office.** An employee of the District's Clerk's office will file the petition and return the extra copy reflecting the date and time of filing.
- Filings by facsimile must be transmitted to the District Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the District Clerk receives the complete document.

The following provisions may be applicable to SFWMD actions in combination with the applicable Uniform Rules of Procedure (Subsections 40E-0.109(1)(a) and 40E-1.511(1)(a), Fla. Admin. Code):

- (1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, Fla. Admin. Code, means receipt of either written notice through mail or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.
- (b) If notice is published pursuant to Chapter 40E-1, F.A.C., publication shall constitute constructive notice to all persons. Until notice is published, the point of entry to request a formal or informal administrative proceeding shall remain open unless actual notice is received.
- (2) If the District's Governing Board takes action which substantially differs from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law. The District Governing Board's action is considered to substantially differ from the notice of intended agency decision when the potential impact on water resources has changed.
- (3) Notwithstanding the timeline in Rule 28-106.111, Fla. Admin. Code, intended agency decisions or agency decisions regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands pursuant to Section 373.427, Fla. Stat., shall provide a 14 day point of entry to file petitions for administrative hearing.

Hearings Involving Disputed Issues of Material Fact

The procedure for hearings involving disputed issues of material fact is set forth in Subsection 120.57(1), Fla. Stat., and Rules 28-106.201-.217, Fla. Admin. Code. Petitions involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.201, Fla. Admin. Code.

Hearings Not Involving Disputed Issues of Material Fact

The procedure for hearings not involving disputed issues of material fact is set forth in Subsection 120.57(2), Fla. Stat., and Rules 28-106.301-.307, Fla. Admin. Code. Petitions not involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.301, Fla. Admin. Code.

Mediation

As an alternative remedy under Sections 120.569 and 120.57, Fla. Stat., any person whose substantial interests are or may be affected by the SFWMD's action may choose to pursue mediation. The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement.

DISTRICT COURT OF APPEAL

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.